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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/023,475	12/20/2001	Koji Ito		3623

23400 7590 02/24/2004
POSZ & BETHARDS, PLC
11250 ROGER BACON DRIVE
SUITE 10
RESTON, VA 20190

EXAMINER

DUNWOODY, AARON M

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 02/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n N .

10/023,475

Applicant(s)

ITO ET AL.

Examiner

Aaron M Dunwoody

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 December 2003.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19, 27 and 28 is/are pending in the application.
4a) Of the above claim(s) 3-7 and 10-19 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1, 2, 8, 9, 27 and 28 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 04 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12.15.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

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DETAILED ACTION

Drawings

The drawings were received on 12/4/2003. These drawings are approved.

Election/Restrictions

Claims 5, 7, 10-12 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 14.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 28 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 28 lacks a claim dependency statement rendering the claim indefinite. The Examiner will assume that claim 28 depends from claim 27.

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 8, 9, 27 and 28 are rejected under 35 U.S.C. 102(e) as being anticipated by US patent 6260889, Tozaki et al.

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In regards to claim 1, Tozaki et al discloses a hose coupling assembly a fitting member (12) including a passage portion having a receiving passage, and a first engagement catch (17) projecting outwardly from an open peripheral end of the passage portion; and a socket (20) having an elastically and diametrically-expandable socket body, a second engagement catch (23), formed on the socket body, for engaging the first engagement catch; and a socket fitting portion, formed on an opening of the socket body; wherein: the socket is formed such that the connecting of a hose (110) with the external passage with a tight seal is achieved by pressing the socket attached to the corrugated portion (111) toward the fitting member to engage the second engagement catch with the first engagement catch; disengagement of the second engagement catch from the first engagement catch is achieved by expanding the diameter of the socket body; and the entire socket expands while the socket is pressed toward the fitting member.

Note, a hose having a corrugated portion to an external passage is not part of the claimed invention.

In regards to claim 2, Tozaki et al discloses the socket body having a slit across the entirety of a length of the socket to provide C-shaped cross section.

In regards to claim 8, Tozaki et al discloses the fitting member comprising a diametrical expansion projection for causing the socket body to expand due to rotation of the socket body relative to the fitting member.

In regards to claim 9, Tozaki et al discloses the socket body comprising a guide (the edge of 17) for guiding the diametrical expansion projection.

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In regards to claim 27, Tozaki et al discloses a hose coupling assembly comprising:

a fitting member, which includes a receiving passage and a first engagement catch, wherein the first engagement catch projects outwardly from an end of the fitting member; and a generally C-shaped socket, wherein the C-shaped socket includes:

an elastically and diametrically-expandable socket body for covering the fitting member and the corrugated section;

a slit formed in the socket, wherein the slit permits the socket to expand diametrically;

a second engagement catch, formed on the socket body, for engaging the first engagement catch; and

a socket fitting portion, formed on an opening, for mating with the corrugated portion, wherein:

the socket is formed such that connection of the hose with the external passage with a tight seal is achieved by pressing the socket, which is attached to the corrugated section, toward the fitting member to engage the second engagement catch with the first engagement catch, wherein the diameter of the socket increases and separation occurs at the slit when the socket is pressed axially toward the fitting member; and disengagement of the second engagement catch from the first engagement catch is achieved by expanding the diameter of the socket body.

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Note, it is well established that a recitation with respect to the manner in which an apparatus is intended to be employed, *i.e.*, a functional limitation, does not impose any structural limitation upon the claimed apparatus which differentiates it from a prior art reference disclosing the structural limitations of the claim. In re Pearson, 494 F.2d 1399, 181 USPQ 641 (CCPA 1974); In re Casey, 370 F.2d 576, 152 USPQ 235 (CCPA 1967); In re Otto, 312 F.2d 937, 136 USPQ 458 (CCPA 1963). Where the prior art reference is inherently capable of performing the function described in a functional limitation, such functional limitation does not define the claimed apparatus over such prior art reference, regardless of whether the prior art reference explicitly discusses such capacity for performing the recited function. In re Ludtke, 441 F.2d 660, 169 USPQ 563 (CCPA 1971). In addition, where there is reason to believe that such functional limitation may be an inherent characteristic of the prior art reference, Applicant is required to prove that the subject matter shown in the prior art reference does not possess the characteristic relied upon. In re Spada, 911 F.2d 705, 15 USPQ2d 1655 (Fed. Cir. 1990); In re King, 801 F.2d 1324, 1327, 231 USPQ 136, 138 (Fed. Cir. 1986); In re Ludtke, 441 F.2d at 664, 169 USPQ at 566 (CCPA 1971); In re Shreiber, ___ F.2d at ___, 44 USPQ2d 1429 (Fed. Cir. 1997).

In regards to claim 28, as best understood, Tozaki et al discloses the separation at the slit and the expansion of the socket being caused by engagement between the first engagement catch and the second engagement catch when the socket is pressed axially toward the fitting member.

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R s p o n s t o A r g u m e n t s

Applicant's arguments with respect to claims 1, 2, 8 and 9 have been considered but are moot in view of the new ground(s) of rejection.

C o n c l u s i o n

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron M Dunwoody whose telephone number is (703) 306-3436. The examiner can normally be reached on Monday - Friday between 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H Browne can be reached on (703) 308-1159. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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